



**European Committee  
of the Regions**

Brussels, 8 June 2018

**184th MEETING OF THE EUROPEAN COMMITTEE OF THE REGIONS BUREAU**

**- 3 JULY 2018 -**

**ITEM 6A)**

**SUBSIDIARITY ANNUAL REPORT 2017**

*Submitted by the Secretary General*

**FOR INFORMATION**

**SUMMARY**

**Bureau meeting: 184**

**Date: 3/07/2018**

**Item 6a)**

**Subsidiarity  
Annual Report 2017**

**Type:**

- Document for information / debate**
- Document for decision**
- Recommendation to the Assembly**

**Short description:**

The eighth Annual Report on Subsidiarity sets out the subsidiarity and proportionality-related activities of the CoR in 2017.

**The Bureau is invited to:**

- Take note of this document.

**Remarks:**

The subsidiarity activities were suspended by the Bureau decision of 30 January 2018 for the duration of the mandate of the Task Force on Subsidiarity (1 January-15 July), thus the report is prepared in a shorter format.

## 1. Introduction

The year 2017 was marked by a wide debate on the Future of Europe, in which the European Committee of the Regions (CoR) emphasised the importance of efficient application of the subsidiarity and proportionality principles. In 2017, the CoR implemented its fifth Subsidiarity Work Programme<sup>1</sup> as its main instrument of subsidiarity monitoring. In this framework three initiatives selected from the European Commission Work Programme 2017 were monitored with particular attention. In addition, on the basis of its internal rules<sup>2</sup>, the CoR assessed compliance with the subsidiarity and proportionality principles of all legislative proposals on which it issued opinions. Furthermore, the 8<sup>th</sup> Subsidiarity Conference took place on 4 December 2017.

In 2017, fifteen CoR opinions were issued on legislative proposals. For the majority of them, the CoR found that they complied with the principles of subsidiarity and proportionality. In two opinions the CoR raised concerns which were relevant in terms of subsidiarity and proportionality monitoring.

**The opinion<sup>3</sup> on 'The services package'<sup>4</sup>** raised objections as to the compliance of proposed measures with the subsidiarity and proportionality principles pointing out "*potential interference in national legislative procedures*" and highlighting that "*the proposals for the services e-card, notification procedure and proportionality test will impose additional administrative burdens*".

**The opinion<sup>5</sup> on *The European Pillar of Social Rights and Reflection paper on the social dimension of Europe*** highlighted that the local and regional dimension of social policies should be properly taken into account.

As part of the Subsidiarity Work Programme, three consultations were carried out. First, a consultation of the Subsidiarity Expert Group (SEG)<sup>6</sup> was undertaken for three of the initiatives included in the Subsidiarity Work Programme. The SEG was first consulted regarding the **proposal for a Regulation on the Financial Rules Applicable to the General Budget of the Union**<sup>7</sup>. The experts considered that the new proposals on financial instruments and conditions<sup>8</sup> have a substantial impact on their beneficiaries and the content and procedure of policy implementation on the ground. Also, the managing authorities at national and regional level were substantially concerned by the proposals. The opinion<sup>9</sup> pointed out that "*no impact assessment was carried out and that a justification in terms of proportionality is not substantiated by the presented data*". Furthermore, in the opinion "*the CoR questions the European Commission's assessment that the legislative proposal falls under the exclusive competence of the Union given that the proposals on the sectoral legislative acts go beyond aligning the text with the new financial rules applicable to the Union*".

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<sup>1</sup> [COR-2016-06709-07-00-NB](#) (p.132-135), adopted by the CoR Bureau on 7 February 2017

<sup>2</sup> Rule 55.2 of the Rules of Procedure OJEU L65/41, 5.3.2014, [http://www.toad.cor.europa.eu/pdf/rop\\_en.pdf](http://www.toad.cor.europa.eu/pdf/rop_en.pdf)

<sup>3</sup> COR-2017-01195

<sup>4</sup> COM (2016) 821 final, COM (2016) 822 final, COM (2016) 823 final and COM (2016) 824 final

<sup>5</sup> COR-2017-03141

<sup>6</sup> The SEG, a part of the CoR Subsidiarity Monitoring Network, currently consists of 12 experts who provide support at technical level and CoR contact points for subsidiarity monitoring in Member States

<sup>7</sup> COM (2016) 605 final

<sup>8</sup> e.g. lump sums, unit costs, flat rates, recognition of voluntary work, awards of grants, exclusion criteria, removing the non-profit rule.

<sup>9</sup> COR-2016-05838

The second consultation concerned the package entitled "**Clean Energy for all Europeans**" (or "Winter Package") to reform some of the central pieces of EU energy legislation<sup>10</sup>. With regard to the Governance of the Energy Union<sup>11</sup>, the respondents have highlighted that, particularly for the federal countries with many stakeholders involved in implementation, the proposed time frames are too narrow and are not compatible with the coordination process used in federal states. The opinion did not raise concerns regarding the proposal's compliance with the principle of subsidiarity. However, proportionality concerns were raised, *"as the suggested governance system is considered too complex, too detailed and to impose too tight reporting intervals. The CoR would have preferred to see the governance system introduced via a directive, instead of regulation, which would allow the proper involvement of regional authorities in federal countries"*.

With regard to the proposals on **Energy efficiency and performance in buildings**<sup>12</sup> the opinion<sup>13</sup> shares the points raised by the consultation respondents and points out that the given legal base, Art. 194 TFEU, does not cover measures to combat energy poverty which *"should come under TFEU Article 151"*. The opinion *"opposed to the introduction of the smartness indicator by means of a delegated act"*. In terms of proportionality, the opinion attested to compliance with the principle for both proposals. The opinion on Renewable energy and the internal market in electricity<sup>14</sup> attested compliance with the subsidiarity principle and pointed out the need for *"a more thorough examination"* for the assessment of compliance with proportionality principle.

Finally, the SEG was consulted on the **proposal on work-life balance for parents and carers**<sup>15</sup>. Also some positions<sup>16</sup> were received on the REGPEX platform pointing out that the proposed measures are not necessary and that existing national measures and arrangements in place are sufficient. The opinion on this proposal<sup>17</sup> attested to compliance with subsidiarity and proportionality principles considering *"that the Commission's proposal seeks to modernise the existing legal framework in order to provide common minimum standards for work-life balance policies, EU-level action is necessary, suitable and appropriate"*. However, the opinion underlined that *"Union action should leave as much scope for individual and national decisions as possible since it is established practice for this area to be regulated by the social partners at both EU and national level"*.

The use of REGPEX<sup>18</sup> - the sub-network of the Subsidiarity Monitoring Network open to parliaments and governments of regions with legislative powers - increased in 2017 and two partners joined in the

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<sup>10</sup> COM (2016)759 final, COM(2016) 761 final, COM (2016) 765 final, COM (2016) 767 final, COM (2016) 861 final, COM (2016) 863 final, COM(2016) 864 final

<sup>11</sup> COM (2016) 759 final

<sup>12</sup> COM (2016) 765 final and COM (2016) 761 final

<sup>13</sup> COR-2017-00831

<sup>14</sup> COR-2017-00832 concerning proposals COM (2016) 767 final, COM (2016) 861 final, COM (2016) 864 final, COM (2016) 863 final

<sup>15</sup> COM (2017) 253 final

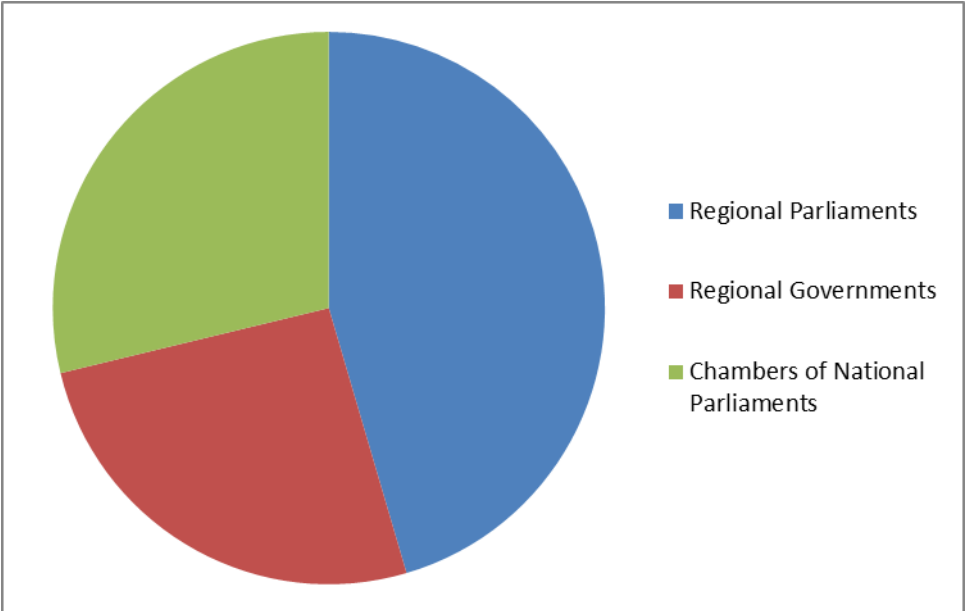
<sup>16</sup> The Parliament of Upper Austria and a joint position by the Austrian regional governments underlined that measures in place were sufficient, the Legislative Assembly of Emilia-Romagna and Legislative Assembly of Marche welcomed the proposal and raised no subsidiarity concerns.

<sup>17</sup> COR-2017-03138

<sup>18</sup> REGPEX (**REG**ional **P**arliaments information **EX**change) is a subsection of the SMN website consisting of a database designed to assist regions with legislative powers with regard to the EWS. It was launched by the CoR in 2012. <http://corportal/subsidiarity/regpex/Pages/default.aspx>

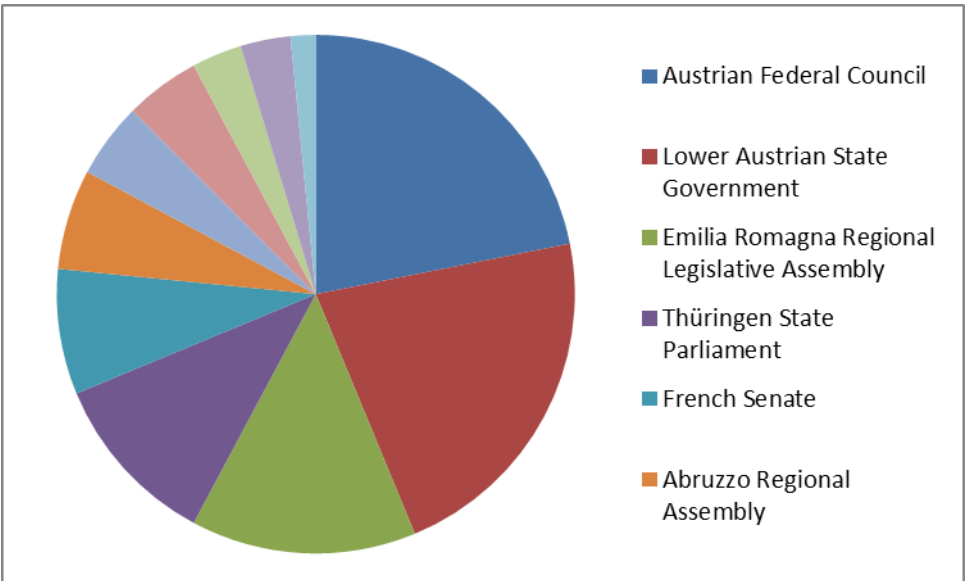
course of 2017 (see a full list of partners in Appendix 1). The REGPEX search engine facilitates a selection of priorities for subsidiarity monitoring and an exchange of information between partners by providing direct access to information for subsidiarity analysis, and links to EurLex, IPEX, CoR opinions and other REGPEX partners' contributions. In 2017, a total of 66 contributions submitted by REGPEX partners were uploaded to the platform.

Graph 1. Contributions in 2017 by partner type



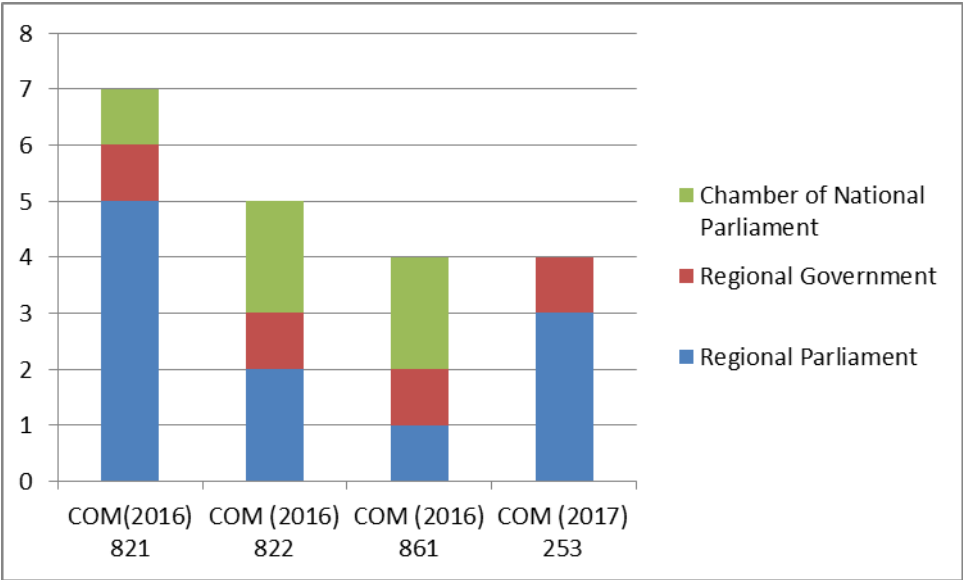
The Austrian Federal Council, the Lower Austrian State Government, the Emilia Romagna Regional Legislative Assembly and Thuringia State Parliament were among the most active partners.

Graph 2. Contributions in 2017 by individual partner



In terms of numbers, the highest number of submissions was received by the "Services package"<sup>19</sup> (6 submissions), where subsidiarity and in particular proportionality concerns were raised regarding the suggested notification procedure for authorisation schemes and requirements related to services<sup>20</sup> (receiving more submissions of regional parliaments) as well as regarding suggested proportionality test before adoption of new regulation on professions<sup>21</sup> (both national and regional parliaments raising proportionality issues); and by the "Work-life balance for parents and carers"<sup>22</sup> (4 submissions) where two submissions questioned the necessity of the proposed measures and their compliance with the legal base indicated in the proposal while two other submissions attested compliance with both principles. On the "Internal market for electricity"<sup>23</sup>, while the number of total submissions was the same as for the "Work-life balance for parents and carers" (4 submissions), their distribution per partner type was different, as there were more submissions by chambers of national parliaments than by regional parliaments or governments.

Graph 3. Submissions by Commission document



The increase in submissions compared to the previous year<sup>24</sup> shows that REGPEX continues to be an important tool for subsidiarity monitoring and fosters the exchange of good practices and a more streamlined approach to subsidiarity monitoring.

A major event in the area of subsidiarity was the **8<sup>th</sup> inter-institutional Subsidiarity Conference**, co-organised by the Committee of the Regions and the Austrian Federal Council that took place in Vienna on 4 December 2017, with over 200 participants from different national, regional and EU institutions, thus representing all levels of governance. Alongside the traditional focus on subsidiarity monitoring,

<sup>19</sup> In particular COM (2016) 821 final  
<sup>20</sup> COM (2016) 821 final  
<sup>21</sup> COM (2016) 822 final  
<sup>22</sup> COM (2017) 253 final  
<sup>23</sup> COM (2016) 861 final  
<sup>24</sup> 28 submissions in 2016

this year's Conference put the spotlight on the new Task Force on Subsidiarity, Proportionality and 'Doing less more efficiently' set up by the European Commission.

One of the main conclusions arising from the debate was that subsidiarity principle should be one of the guiding principles for the future of Europe, as it allows closing the gap between the EU and its citizens, thus facilitating European integration and cooperation. Therefore, subsidiarity application in practice is a matter of primary concern not only for the EU institutions and Member States, but also for local and regional authorities. It was pointed out as well that the meaning of the subsidiarity principle is not always clearly communicated to citizens, as institutions tend to focus more on its legal and technical aspects than on its political meaning. The debate highlighted that broader acceptance of policies cannot be achieved without the correct application of the principles of subsidiarity and proportionality.

**PROPOSAL:**

**Bureau members are invited to take note of this document.**

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**Appendix 1****List of partners  
The CoR Subsidiarity Monitoring Network (SMN)****155 partners as at 31 December 2017****Parliaments or assemblies representing regions  
with legislative powers**

Lower Austria State Parliament	Austria
Burgenland State Parliament	Austria
Carinthia State Parliament	Austria
Tyrol State Parliament	Austria
Vorarlberg State Parliament	Austria
Upper Austria State Parliament	Austria
Flemish Parliament	Belgium
Walloon Parliament	Belgium
Brussels-Capital Region Parliament	Belgium
French Community Parliament	Belgium
Parliament of the German-speaking Community	Belgium
Åland Parliament	Finland
Bavarian State Parliament	Germany
Baden-Württemberg State Parliament	Germany
Brandenburg State Parliament	Germany
Hesse State Parliament	Germany
North Rhine-Westphalia State Parliament	Germany
Lower Saxony State Parliament	Germany
Saxony-Anhalt State Parliament	Germany
Schleswig-Holstein State Parliament	Germany
Thüringen State Parliament	Germany
Hamburg City Parliament	Germany
Saxon State Parliament	Germany
Mecklenburg-Vorpommern State Parliament	Germany
Emilia Romagna Regional Legislative Assembly	Italy
Marche Regional Legislative Assembly	Italy
Sardinia Regional Legislative Assembly	Italy
Tuscany Regional Legislative Assembly	Italy
Trento Autonomous Province Legislative Assembly	Italy
Friuli – Venezia Giulia Regional Assembly	Italy
Abruzzo Regional Assembly	Italy
Calabria Regional Assembly	Italy
Piedmont Regional Assembly	Italy
Lombardy Regional Assembly	Italy
Sicilian Regional Assembly	Italy
Lazio Regional Assembly	Italy
Azores Legislative Assembly	Portugal
Madeira Legislative Assembly	Portugal



Asturias Legislative Assembly	Spain
Basque Regional Parliament	Spain
Canary Islands Regional Assembly	Spain
Catalan Regional Parliament	Spain
Extremadura Regional Assembly	Spain
Galician Regional Parliament	Spain
Navarre Regional Parliament	Spain
Welsh National Assembly	United Kingdom
Northern Ireland Assembly (NIA)	United Kingdom

**Governments or executives representing regions  
with legislative powers**

Lower Austrian State Government	Austria
Vienna City Municipal Executive	Austria
Steiermark State Government	Austria
Tyrol State Government	Austria
Vorarlberg State Government	Austria
Upper Austrian State Government	Austria
Flemish Government	Belgium
Bavarian State Government	Germany
Hesse State Government	Germany
Lower Saxony State Government	Germany
Saxony State Government	Germany
Rhineland-Palatinate State Government	Germany
Hamburg City Senate	Germany
Abruzzo Regional Government	Italy
Bolzano/Bozen – South Tyrol Provincial Government	Italy
Lombardy Regional Government	Italy
Piedmont Regional Government	Italy
Veneto Regional Government	Italy
Emilia Romagna Regional Government	Italy
Friuli Venezia Giulia Regional Government	Italy
Azores Regional Government	Portugal
Madeira Regional Government	Portugal
Basque Government	Spain
Canary Islands Government	Spain
Galicia Regional Government	Spain
Madrid Regional Government	Spain
Valencia Regional Government	Spain
Murcia Regional Government	Spain
Asturias Regional Government	Spain
Scottish Government	United Kingdom

**Local or regional authorities without legislative powers**

Sofia City	Bulgaria
Zlín City	Czech Republic

Auvergne Regional Council	France
Dunkirk Urban Community	France
Eure General Council	France
Augsburg City	Germany
Erlangen Municipality	Germany
Neapoli-Sykies Municipality	Greece
Patras Municipality	Greece
Budapest City	Hungary
Alessandria Province	Italy
Radviliškis District Municipality	Lithuania
Flevoland Provincial Government	Netherlands
Twente Network City – (inc. municipalities of Almelo, Borne, Hengelo, Enschede and Oldenzaal)	Netherlands
Overijssel Province	Netherlands
Łódź City	Poland
Łódź Region Marshal's office	Poland
Wielkopolska Region Marshal's office	Poland
Pomeranian Regional Parliament	Poland
Masovian Region Marshal's office	Poland
Silesian Region Government	Poland
Municipality of Tavira	Portugal
Municipality of Maia	Portugal
Hunedoara City	Romania
Galați County Council	Romania
Harghita County Council	Romania
Košice Autonomous Region Government	Slovakia
Nitra Self Governing Region	Slovakia
Izola City	Slovenia
Barcelona Provincial Council	Spain
Ceuta Autonomous City	Spain
Madrid City	Spain
Gothenburg	Sweden
Västra Götaland County	Sweden
Skåne Regional Government	Sweden

### **Associations of regional and/or local authorities**

Arco latino	European association
Assembly of European Regions	European association
Association of European Border Regions	European association
Conference of European Regional Legislative Assemblies (CALRE)	European association
Council of European Municipalities and Regions (CEMR)	European association
Eurocities	European association
REGLEG	European association
Austrian State Governors' Conference	Austria
Union of Cyprus Municipalities	Cyprus
Danish Regions	Denmark

Denmark Local Government	Denmark
Association of Finnish Local and Regional Authorities	Finland
Association of Mayors and Elected Representatives of Lozère	France
Conference of Atlantic Arc Cities	France
French Regions Association	France
German Association of Towns and Municipalities	Germany
German County Association	Germany
Association of Prefectoral Authorities of Greece (ENAE)	Greece
AICCRE - Italian Section of the Council of European Municipalities and Regions	Italy
Conference of the Presidents of the Italian Regional Parliaments	Italy
Union of Italian Provinces (UPI)	Italy
Latvian Association of Local and Regional Governments	Latvia
Lithuanian Association of Local Authorities	Lithuania
Association of the Provinces of the Netherlands (IPO)	Netherlands
Association of Netherlands Municipalities (VNG)	Netherlands
Association of Romanian Municipalities	Romania
Association of Romanian Cities	Romania
National Union of County Councils	Romania
Association of Municipalities of Aragon	Spain
Federation of Provinces and Municipalities of Extremadura	Spain
Eixo Atlántico	Spain / Portugal
Association of Swedish Local and Regional Authorities (SALAR)	Sweden
Convention of Scottish Local Authorities (COSLA)	United Kingdom

### **CoR national delegations**

Irish Delegation to the CoR	Ireland
Luxembourg Delegation to the CoR (Syvicol)	Luxembourg
Maltese Delegation to the CoR	Malta
Romanian Delegation to the CoR	Romania
United Kingdom Delegation to the CoR (LGA)	United Kingdom

### **National Parliaments**

Austrian Federal Council (Bundesrat)	Austria
French Senate	France
Hellenic Parliament	Greece
Italian Senate	Italy
Portuguese Assembly	Portugal